

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DEREK MATTHEWS,

Plaintiff,

v.

EDMUND G. BROWN, et al.,

Defendants.

No. 2:20-cv-2515 JAM DB P

ORDER

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On June 9, 2021, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within fourteen days. Plaintiff has filed objections to the findings and recommendations. Defendants have filed a response.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court has conducted a de novo review of this case. Having carefully reviewed the entire file, the court finds the findings and recommendations to be supported by the record and by proper analysis.

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Accordingly, IT IS HEREBY ORDERED:

1. The findings and recommendations filed June 9, 2021 (ECF No. 100), are adopted in full;
2. The motion to dismiss (ECF No. 77) filed by defendant Pinchback based on failure to exhaust administrative remedies is denied;
3. The motion to dismiss (ECF No. 58) filed by defendants Walker, Huff, Jackson, Sysombath and Tout is granted in part and denied in part:
  - a. Denied to the extent it is premised on failure to exhaust administrative remedies;
  - b. Denied to the extent it is based on failure to state a claim under the Fourth Amendment against defendants Sysombath and Tout and defendants' assertion of qualified immunity from suit on the Fourth Amendment claim against defendants Sysombath and Tout; and
  - c. Granted as to all other causes of action against defendants Sysombath, Tout, Walker, Huff, and Jackson.
4. This case proceeds on plaintiff's claims against defendants Pinchback, Sysombath and Tout as set forth herein.

Dated: September 3, 2021

/s/ John A. Mendez

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THE HONORABLE JOHN A. MENDEZ  
UNITED STATES DISTRICT COURT JUDGE